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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/686,572	10/10/2000	Thomas James Dubil	US000183	4775

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BRIARCLIFF MANOR, NY 10510

EXAMINER

TRAN, MYLINH T

ART UNIT	PAPER NUMBER
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2179

MAIL DATE	DELIVERY MODE
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10/09/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/686,572	DUBIL ET AL.	
	Examiner	Art Unit	
	Mylinh Tran	2179	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3,4,6,14-18 and 20-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-4, 6, 14-18 and 20-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Applicant's Amendment filed 07/18/07 has been entered and carefully considered. Claims 3, 6, 14, 17, 23 have been amended. Claims 27-30 have been added. However, the limitations of the amended and new claims have not been found to be patentable over prior art of record, therefore, claims 3-4, 6, 14-18 and 20-30 are rejected under the new ground of rejection as set forth below.

Specification

Claims 15, 22 appear to be directed to software per se. Corrections are required to place these claims in one of four categories of invention.

Claim 16 is objected because the term of " machine readable medium" is not defined in the specification. Correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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Claims **3-4, 6, 14-18, 20-22, 24-27 and 29-30** are rejected under 35 U.S.C. 102(e) as being anticipated by Allport [6,104,334].

As to claims 3, 14-15 and 17-18, Allport discloses enabling the server on the Internet an apparatus (column 4, lines 40-53) to be controlled by a control device which has a touch screen GUI (column 4, lines 28-40), the server on the internet including a database of code sets (column 8, lines 45-50); enabling the server on the internet to identify one of the code set corresponding to the specified apparatus to be provided as data in a mark up a language format (column 24, lines 38-44); providing the identified code set over the internet to a home network, the mark-up language format code set including a control code representative of a command to control a state of the specified apparatus and a GUI panel corresponding to the specified apparatus (column 8, lines 30-50); the control code not being usable by the specified apparatus until the control code is converted into the command and transmitted to the apparatus by an IR or RF transmission (column 8, lines 35-48) independent of the internet, wherein the apparatus is not pre-configured to deliver or cause delivery of its respective control code to the control device (column 9, lines 5-44); enabling the control device to convert the control code into an associated command (column 22, lines 20-33); and enabling the control device to display the GUI panel (icons, column 13, lines 47-60) corresponding to the specified

apparatus on the touch screen GUI; and using the displayed touch screen GUI to enable the control device to send the command to the specified apparatus via the IR or RF transmission (column 14, lines 11-25);

As to claim 4, Allport discloses the control code comprising part of an EPG or ECG (column 25, lines 11-20).

As to claim 6, Allport also discloses the GUI panel displayed on the touch screen GUI comprising a graphical representation of a remote control device corresponding to the specified apparatus (column 13, line 50-60).

As to claim 16, Allport discloses control code representing an IR and RF signal for transmission by a remote control device to the CE equipment (column 8, lines 30-50).

As to claim 20, Allport discloses the language format being a markup language format (column 5, lines 50-67).

As to claim 21, Allport discloses the bidirectional network including the internet and the source being located on the internet and remote from the apparatus and the network (column 4, lines 40-53).

As to claims 22 and 26, Allport discloses the bidirectional network including the internet, the plurality of home networks each being connected with the internet to receive control codes requested from the database over the internet (column 25, line 63 through column 26, line 8).

As to claim 24, Allport discloses the bidirectional network including the internet, the user specifying the apparatus to be controlled over the internet to the

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server, which server is remote from and not a part of the home network or the specified apparatus, and the control code is sent via the internet to the home network to the controlled device (column 7, line 55 through column 8, line 12).

As to claim 25, Allport discloses the database being remote from and not a part of the home network and not a part of the CE equipment (pages 4-5, 0071-0075).

As to claim 27, Allport discloses the display panel including a touch screen and the graphical representation including control keys of the apparatus remote control (column 5, lines 32-44), the remote control device being configured such that touching a control key of the graphic representation causes a corresponding one of the commands to be selected (column 6, lines 1-13) and at the transmitter to transmit the IR or RF signal corresponding to the selected command (column 4, lines 20-27).

As to claim 29, Allport discloses generating a graphical representation depicting a control device for the specified apparatus (column 13, lines 47-65).

As to claim 30, Allport discloses the mark up language format codes including a third set including a GUI element which represent a graphical representation of a remote controller for the CE equipment which is to be controlled, the graphical representation being displayed on a touch screen such that the user can select among the control codes by touching the touch screen (column 18, lines 22-55).

Claim Rejections - 35 USC § 103

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 23 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allport.

As to claims 23 and 28, Allport fails to clearly teach the XML format. However, Allport teaches a method of creating screen layouts being through the use of the Internet HTML (column 24, lines 32-44). Generating data in XML format was well known in the computer art. It would have been obvious to one of skill in the art, at the time the invention was made, to implement the markup language

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format data being in XML format. Motivation of the combination is a powerful tool for transmission and manipulation of data.

Response to Arguments

Applicant's arguments with respect to claims 3, 14-18 and 29 have been considered but are moot in view of the new ground of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mylinh Tran. The examiner can normally be reached on Mon - Thu from 7:00AM to 3:00PM at 571-272-4141.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo, can be reached at 571-272-4847.

The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

571-273-8300

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mylinh Tran

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WEILUN LO
SUPERVISORY PATENT EXAMINER